Group B Public Water Systems - Chapter 246-291 WAC
WSR 12-17-138
Formal Comments and Department of Health's Recommendations - October 2, 2012

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Andrew Evers, PE Watec	**(1)** In Section Number 170: The Arsenic units should be *Micro*-grams, not milligrams. The standard is 10 ppb = 10 ug/L = 10 micrograms per liter. Units of measurement are so pesky!	**(1) Adopt as proposed:** The proposed rule language has the proper units. The department does not recommend making changes to section 170 . The department modified the arsenic units in the Summary of Changes document, the Significant Analysis, and Small Business Economic Impact Analysis to correct the error. The rule language is properly cited as micrograms per liter.
Paul Robischon Southwest Region Operations Washington Water Service Company	**(2)** The proposed rule shows that the new standard will be 0.010mg/l or 10ppb from 0.050mg/l or 50ppb. I believe the summary should state "Changes the standard for arsenic from 50ppb to 10ppb for new or expanding systems" or, "Changes the standard for arsenic from 0.050mg/l to 0.010mg/l for new or expanding systems" **(3)** Section number 360 in the summary states that purveyors must notify consumers served by the system within 30 days if the system has an arsenic level greater than 10mg/l. I believe this should be 0.010mg/l. Does this only apply to systems that were approved under the new standard? I do not see where there is a requirement for ongoing arsenic sampling on a group B system so how will the purveyor know if the arsenic level exceed 10ppb at a later date?	(2) **Adopt as proposed:** The proposed rule language is properly cited as micrograms per liter, no change. **(3) Adopt as proposed:** The department does not recommend making any changes to section 360, public notification. For a Group B system constructed prior to January 1, 2013 that had a sample analyzed for arsenic and the analysis exceeded 0.010 mg/L, the purveyor shall provide written notice to its consumers. The notice must be provided within thirty days of the sample analysis result, or when adding a new service connection. The purveyor shall provide notice to the system's consumers with information describing the contaminant and any known problems, what the purveyor is doing to resolve the problem, where to get health effects information, and when the purveyor expects the problem to be resolved. There is no requirement to sample for arsenic after the effective date of this chapter for a system that was previously approved. If the purveyor chooses to sample for arsenic and the sample analysis result exceeds 0.010 mg/L, the purveyor shall notify its consumers within thirty days under WAC 246-291-360 (3)(b).

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		The department intends on notifying Group B systems that may have an arsenic concentration of 0.010 mg/L or higher about the notification requirement.
James R. (Rick) Dawson Benton-Franklin Health District	**(4)** RCW 43.20.050 (2) (b) is the basis for this proposed rule change and states: In order to protect public health, the state board of health shall adopt rules as necessary for Group B public water systems, as defined in RCW 70.119A.020. The rules shall, at a minimum, establish requirements regarding the initial design and construction of a public water system. The state board of health rules may waive some or all requirements for Group B public water systems with fewer than five connections; The Department of Health/State Board of Health (SBOH) is taking this short statement to indicate that the legislature is directing them to only have standards for initial system design and construction and infers that no further requirements are necessary. In reading the RCW and Substitute Senate Bill 6171 I'm not quite clear that this is what is intended. They are directing the State Board of Health to at a minimum adopt requirements for design and construction. It does not indicate that the SBOH is prohibited from maintaining the current additional requirements for these systems but must address design and construction. If design and construction were to be the only requirements important to the legislature why should we be even looking at the source for quality or quantity? I would state because we need to protect public health and while initial testing is a right step, on-going monitoring is key as well. **(5) WAC 246-291-001 Purpose and scope** The quality of design and construction can make a system easier to operate but cannot guarantee continued safe water. Unfortunately these systems are operated by people with no training or expertise in operating a water system, the only way to protect health is through some	**(4) Adopt as proposed:** The department does not recommend including ongoing monitoring requirements. Substitute Senate Bill 6171"AN ACT Relating to savings in programs under the supervision of the department of health" was passed along with the elimination of all funding to the department of health. While the legislature did not obligate the State Board of Health to take a specific action, the legislature intended the Board to adopt a regulatory framework that could be effectively implemented without funding. The proposal follows the objective of the legislative directive by protecting public health through more rigorous initial design and construction standards, and eliminating costs for the department's oversight of compliance with ongoing monitoring requirements. **(5) Adopt as proposed:** The purpose and scope align with the legislative directive to achieve savings in the program.

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	routine testing to monitor water quality. This can be put in evidence by the number of larger systems with sound design, and trained operators that still will occasionally have water quality issues.	
	(6) WAC 246-291-005 Applicability (3) (a) The existing rule allows DOH to waive the requirements for 2 unit systems but allows those LHJ's with a JPO to continue to regulate. This current proposal makes local health undergo a rule making process that is expensive to continue a 2 unit Group B program. This seems punitive to LHJ's that are on the frontlines of protecting public health.	**(6) Adopt as proposed:** The department does not recommend making the changes regarding two-connection Group B systems. During informal review and in other meetings, local health jurisdictions (LHJs) have consistently requested that the Group B rule provide flexibility to allow their programs to operate appropriate to their local jurisdiction. The proposed language provides that requested flexibility. The Administrative Procedures Act, RCW 34.05.230(1) encourages agencies to, "convert long-standing interpretive and policy statements into rules." The department exempted two-connection Group B systems from rules by policy since 1996 and the Board is incorporating the policy into the proposed rule.
	(7) WAC 246-291-005 (3) (b) Should be (62) (a) through (h)	**(7) Amend proposed rule:** The department recommends making a non-substantive change modifying (3) (b) to reference (62) (a) through (h) to correct the error.
	(8) WAC 246-291-010 "Potable" These rules contain standards that must met to be considered safe. The definition of potable should reference these standards.	**(8) Adopt as proposed:** The department does not recommend making this change. This definition is consistent with the definition in WAC 246-290-010.
	(9) WAC 246-291-010 "Single Family Residence" Rather than limit regulation to only certain type of facilities it would be appropriate to include a statement that addresses other facilities as required by rule.	**(9) Adopt as proposed:** The specificity in this definition is based on advice from our Assistant Attorney General so that the statutory exemption provided for single-family residences is clearly stated in rule.
	(10) WAC 246-291-030 General administration In the current rule this section contains a statement indicating that DOH may eliminate any and all of these requirements for residential	**(10) Adopt as proposed:** The Administrative Procedures Act, RCW 34.05.230(1) encourages agencies to, "convert long-standing interpretive and policy statements into rules."The current board rule

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	systems with only 2 services. Is there a reason that this program cannot continue in this fashion as it allows those LHJ's with a JPO to regulate these systems without rule making. **(11) WAC 246-291-060 Waivers (1)** and **(1)(b)** The current rule allows the SBOH to waive items, as well as the local BOH and Health Officer. This only allows the local Health Officer or local BOH. Why? This rule specifically avoids monitoring for almost all situations. Why would any waiver issued by an LHJ require monitoring of the system and who would track this?	exempted two-connection Group B systems by policy and is incorporating the policy into the proposed rule. **(11) Adopt as proposed:** Under the proposal, providing a waiver requires appropriate public health protections, such as water quality treatment (if applicable), regular monitoring, maintenance, and oversight. Because the department does not have resources to provide oversight of treatment and monitoring, the State Board of Health would have to deny the waiver. The rule provides clarity to the public by establishing that waivers will not be issued for systems approved by the department. Many local health jurisdictions have Group B programs that include requirements (such as ongoing monitoring) as a condition to grant a waiver. Because of this, the LHJ has the flexibility to develop a program that includes issuing waivers for Group B systems that do not meet the proposed new standards. If an LHJ issues a waiver to the standards, then it would have to track compliance with conditions that are established as part of their approval. An example of a waiver that would require ongoing monitoring would be for approval of a system that requires continuous disinfection due to coliform bacteria in the system's source. The LHJ would require the system to monitor water quality and report the results on a regular basis, to ensure that the system is delivering potable drinking water. During the informal public rule review and comment period, LHJs requested that the Group B rule provide flexibility to allow their programs to operate appropriate to their local jurisdiction. The proposed language provides flexibility.

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	(12) WAC 246-291-060 Waivers (4) 5 years is excessive. I would state waivers must be developed within the time period specified by the local health officer not to exceed 5 years.	**(12) Amend proposed rule:** The department recommends making a non-substantive change amending this section as suggested.
	(13) WAC 246-291-120 Design report approval Excellent requirements, should also include users agreements for jointly owned systems.	**(13) Adopt as proposed:** Requiring well-users agreements was considered during the rule development process. Establishing requirements for a well-users agreement would be difficult for the department to implement with no funding. The rule provides flexibility for a LHJ to require well-users agreements for new or expanding Group B systems.
	(14) WAC 246-291-125 Groundwater source approval (5) (b) Seems foolish to even consider a reduced SCA for a system that may never be looked at for water quality in the future.	**(14) Adopt as proposed:** The department does not recommend making the changes to WAC 246-291-125 regarding sanitary control areas. Reducing the sanitary control area can be mitigated with measures that fully protect public health. For example, a sewage line that runs within 90 feet of the Group B system's well can be double-cased and the well can be constructed with a deeper surface seal. Plus, the hydrogeologic conditions may provide additional protection. Because these conditions can mitigate the public health risk, the rule provides the ability to reduce the sanitary control area when justified by a technical professional.
	(15) WAC 246-291-140 Water system planning and disclosure requirements This is all fine but many of these systems are jointly owned by a group of homeowners and should have a water users agreement recorded on the title of each property delineating the rights and responsibilities of the parties.	**(15) Adopt as proposed:** The department does not recommend making the suggested change. Requiring well-users agreements was considered during the rule development process. Establishing requirements for a well-users agreement would be difficult for the department to implement with no funding. The rule provides flexibility for a LHJ to require well-users agreements for new or expanding Group B systems.
	(16) WAC 246-291-170 Water quality requirements for groundwater source approval (2) (a) should specify that they must not be collect at the same time	**(16) Adopt as proposed:** The department does not recommend making the suggested change. Samples may be taken at the same time. Two samples provide a more comprehensive assessment of the

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		Group B system's water quality. Requiring samples at different times would increase costs significantly to some systems because it may mean that a licensed professional (such as a well driller) would have to come back to the project site at a different time.
	(17) WAC 246-291-170 (6) I would suggest that treatment not be allowed for even secondary MCL's. If no funds are available for this program how will treatment be effectively monitored.	**(17) Adopt as proposed:** The department does not recommend making the suggested change. Secondary contaminants are set for aesthetic purposes, such as taste and odor. Because there is no public health risks to system consumers, the costs of not allowing a Group B system to use a source that requires treatment for a secondary contaminant outweigh the public health benefits .
	(18) WAC 246-291-200 Design standards (2) (a) For systems serving residential connections this makes any system over 10 connections a group A system. Why not just state this and require them to comply with the Group A rules.	**(18) Adopt as proposed:** A Group B system with ten to 14 connections is not a Group A system. State law defines a Group A and a Group B system. The rule cannot be in conflict with the statutory definitions. The department has no resources to oversee routine monitoring, sanitary surveys, reporting, certified operator and annual operating permits for Group B systems with ten to 14 connections. The proposed planning and design standards for Group B systems with ten to 14 connections help a Group B system and its consumers be prepared for the extra requirements and costs that the system will experience when the system eventually becomes a Group A water system.
	(19) WAC 246-291-200 (11) This should only be required in areas with frequent power outages?	**(19) Adopt as proposed:** The department does not recommend making the suggested change. This is a current requirement under WAC 246-291-240 (2) for a new or expanding Group B system.
	(20) WAC 246-291-250 Continuity of service Shouldn't DOH and the LHJ be notified as well when a system changes ownership?	**(20) Adopt as proposed:** Requiring a system to notify the department of ownership changes, with the expectation that the department is tracking the information and updating its data system would be

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		difficult for the department to implement with no funding. In addition, the department has no resources to enforce that utilities were complying with this requirement. This requirement may be effectively implemented by a LHJ, and the rule provides flexibility for a LHJ to require notification to the LHJ for Group B systems that change ownership.
	(21) WAC 246-291-280 Existing Group B systems (1) (b) This seems like overkill for a system with a sound history.	**(21) Adopt as proposed:** This provision applies to all Group B water systems, and provides a linkage to a potentially important expansion of use. For example, if one of the service connections on a system wanted to start a home-based catering business, this provision would ensure that the system, if never approved as a Group B system, would meet standards appropriate for the use. Without the requirements in (1)(b), the LHJ may have no authority to require the system to meet current water quality requirements.
	(22) WAC 246-291-300 General requirements (1) How will this be known without some sampling. I would propose that the sampling requirements remain the same as in the current rule with this exception. Systems are required to sample and maintain records of sampling. Labs and purveyors are to report samples exceeding the MCL's both for bacteria and table 2.	**(22) Adopt as proposed:** The department recommends that all Group B systems monitor water quality. The department will be updating guidance documents with recommended monitoring frequency, which chemicals should be monitored, and other operations and maintenance information.
	(23) Overall it appears that the chosen path with this rule takes great faith that the quality of design will protect systems from their weak points. Unfortunately it has been shown repeatedly that human operation of even the best designed and constructed systems can and will lead to problems. It is paramount that ongoing monitoring be required of all systems to insure proper water quality. It should be relatively easy to require systems to sample and maintain records with the only reporting requirements being when systems fail. This would allow banks, customers, DOH and LHJ's to request these sampling records	**(23) Adopt as proposed:** The department has no funding to oversee compliance with contaminants after the initial design and construction approval. Requiring water systems to sample and not oversee compliance with the requirement creates a false sense of security by the system's consumers. Under the proposed rule, the department's limited role after initial approval is to assist a Group B system when a serious public health risk exists.

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	when needed. In addition, it could be required that MCL violations be reported to DOH and the LHJ.	
	(24) The complete deregulation of 2 unit systems appears to be punitive to those LHJ's that have assumed the responsibility of these systems through a JPO. This will require rule making in order to continue long standing processes. DOH and the SBOH need to realize that local health is their partner and is also struggling with budget woes. Adding an expensive rule making requirement in order to continue to protect public health for small systems is a poor decision. This will also impact a variety of other unintended areas, such as building officials trying to identify an approved potable water supply prior to issuance of a building permit and the ability for a person to prove that they have the availability to supply water to a plat prior to approval.	**(24) Adopt as proposed:** Two-connection systems may be regulated by the LHJ. The proposal essentially adopts the current policy (which has existed since 1996) into rule, and creates no new obligations on LHJs. Group B systems with more than two connections will be encouraged to regularly monitor their systems. The department will be updating its public education and technical assistance information that is applicable to individual (private) well owners and Group B systems.
	(25) When faced with declining funds we need to be creative in finding ways to protect our consumers and elimination of all requirements is not likely the best option. Allowing purveyors to be responsible for the routine collection of samples and the maintenance of those records seems to be a better option than no sampling requirements. This would create the same cost savings to DOH and local health, putting responsibility on the purveyor. This would still create an avenue to respond to MCL violations, as well as, a way for systems to certify compliance for other permitting agencies.	**(25) Adopt as proposed:** The department does not recommend changing requirements so that a purveyor must regularly collect water quality samples with no compliance oversight of the requirement.
	(26) There are several thousand 2 unit systems currently approved within the state. When this rule is implemented what happens to these systems? In addition, all other approved Group B systems are required to monitor water quality. How does this rule with only initial design and construction being regulated address these systems as they go forward?	**(26) Adopt as proposed:** Two-connection systems may be regulated by the LHJ. The proposal adopts the current policy (which has existed since 1996) into rule, and creates no new obligations on LHJs. Other Group B systems will no longer have ongoing routine monitoring requirements.

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Todd Krause, P.E. Northwest Water Systems	**(27) 246-291-005** *Exempts 1-2 connection non-residential Group B's.* While we concur that the majority of small home-based businesses should be exempt, a business with 24 employees has a much greater exposure to the public than a 3-party residential system. We would proposed that businesses with more than 8 employees (2.5*3) not be exempted.	**(27) Adopt as proposed:** The department does not recommend making this change. The department would have no way to track how many employees a particular business has, especially because the number may fluctuate widely if the business includes seasonal work. The proposed rule provides flexibility to allow the department or a LHJ to regulate a specific business if necessary to protect public health and safety.
	(28) 246-291-015(67) A Certificate of Water Right should be added to the list.	**(28) Adopt as proposed:** The department does not recommend making this change. The well site inspection is not intended to be an evaluation of the availability of water. The requirement to submit a water right is a part of the source approval requirements under WAC 246-290-125.
	(29) 246-291-025 Should be revised to only include ice that is being manufactured for direct sale. I do not believe DOH wants to regulate all businesses with ice machines as Group A Water Systems (small camps, motels, etc.)	**(29) Amend proposed rule:** The department recommends making a non-substantive change amending this section as suggested to clarify the applicability.
	(30) 246-291-060 We strongly, strongly recommend that DOH retain the right to grant waivers. We understand that ongoing monitoring cannot be a mitigation measure, and that DOH does not desire to grant waivers for primary contaminants. These can be addressed specifically; however there will be many non-treatment issues where a waiver would be obviously appropriate. No rule can be written so well as to have it apply to every situation. Therefore, state which items for which a waiver cannot be granted, but do not pigeon-hole regional engineers into either making bad decisions based on a strict reading of this rule, or loosely interpreting it such that waivers are being granted under some other name. This will make consistency impossible. For example, the rule requires all facilities that produce ice for public consumption to meet the requirements of a Group A water	**(30) Adopt as proposed:** The department does not recommend making the change to waivers because the department does not have resources to provide oversight of Group B system treatment and monitoring. Even with the proposed change, the State Board of Health would have to deny the waiver. Specifying that waivers can only be granted by a LHJ with the resources to meet their obligations for issuing the waiver provides clarity to the public about the role of the department in regulating Group B systems. No water system has sought a waiver from the State Board of Health since the adoption of the Group B rule in 1995, so the need for State Board of Health waivers is not supported by past data.

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	system. Perhaps this rule should not apply to a Grange Hall potluck with ice-cube trays that are used in the lemonade. A strict reading of the rule says they must meet Group A Source requirements and -060 says that requirement cannot be waived. One might argue that such a lapse in professional judgment on the part of the design engineer, or the reviewing regional engineer would never occur, we believe that such situations where a waiver is perfectly appropriate will arise, but that the designer and/or regional engineer will force the bad decision because a waiver is not allowed.	
	(31) 246-291-120 Well Share Agreements should be required for all new, community owned water systems, and all systems with ownership being transferred to the community. This will save the water systems money, headache, and improve financial sustainability.	**(31) Adopt as proposed:** The department does not recommend making this change. Requiring well-users agreements was considered during the rule development process. Establishing requirements for a well-users agreement would be difficult for the department to implement with no funding. The rule provides flexibility for a LHJ to require well-users agreements for new or expanding Group B systems.
	(32) 246-291-140 For those systems in counties that have a monitoring program and provide a waiver to a contaminant. The Notice to Future Property Owners should include the monitoring and reporting required	**(32) Amend proposed rule:** The department recommends making a non-substantive change amending this section as suggested to clarify the requirement that the notice to future property owners must include the requirements for monitoring and reporting.
	(33) 246-291-170(2)(b) "have" should be "has", "do should be "does" for tense agreement.	**(33) Amend proposed rule:** The department recommends making a non-substantive change amending this section as suggested to correct the errors.
	(34) 246-291-170(6) Only residential systems should be required to treat for secondary contaminants. Currently, TNC Group A's do not require treatment, so why should "TNC" Group B's have the requirement. Again, without a waiver process the State would not have flexibility in this manner.	**(34) Adopt as proposed:** The department does not recommend making the change to treatment of secondary contaminants. The current rule requires treatment of both primary and secondary contaminants. Because secondary treatment of contaminants address aesthetic concerns, department staff are frequently contacted to resolve these issues. By maintaining the existing requirement to install

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		treatment for secondary contaminants in new or expanding Group B systems, the department should receive fewer complaints, which will reduce the impact to our limited resources.
	(35) 246-291-170 Table 2. The lower Arsenic standard is only applied to new systems. If Arsenic is a significant threat to public health, then the standard should be applied to new and existing systems, with a reasonable timeline for providing treatment. At a minimum all Group B's should test for As and then report the results in a Notice to Title. As part of the justification for the rule change, DOH has expressed the desire to reduce the ambiguity on the part of homeowners as to whether homeowners are given a false sense of security because their water is tested, but only once a year. Therefore, they THINK that the system has oversight and is safe because DOH requires on-going monitoring, but in reality, one sample per year only provides limited information regarding the safety of the water. If this is true and DOH is concerned about sending a message regarding a false sense of security, than why would they allow two standards for a primary contaminant. People on existing Group B water systems will assume that the system was providing safe water when constructed, and why would Arsenic levels ever change? We know have better information, we now know that 50 ppb is not a safe level. Why tell the majority of Group B water systems their water is still safe. Yes, the mailings and follow-up time would require DOH resources; however, if we consider the amount of public health protection vs. dollar spent, this would be some of the most efficiently used dollars in the entire budget.	**(35) Adopt as proposed:** The department does not recommend making changes to treatment of arsenic for existing Group B systems. The Board debated this issue and determined that the appropriate cost-effective strategy for existing systems is to require those Group B systems that exceed 0.010 mg/L to notify consumers of the potential health effects and provide information to consumers about how to protect their health. The department intends on notifying Group B systems that may have an arsenic concentration of 0.010 mg/L or higher about the notification requirement.
	(36) 246-291-200(2)(a) There are times when 2.5 in not an appropriate population estimate. For example, a senior citizen community with covenants for those over 65, or a one bedroom apartment should not have 2.5 perrsons/unit. Again, without a	**(36) Adopt as proposed:** The department cannot control the use of residences after construction. The department does not have the resources to enforce covenants necessary to ensure that all Group B systems with ten to 14 service connections do not serve 25 or more

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	waiver, there is no ability to use common sense here.	people per day. By requiring a Group B system with 10 and 14 connections to plan and design according to the standards in the Group A rule, it helps the system and its consumers be prepared for the requirements and costs that the system will experience when the system serves 25 or more people per day.
	(37) 246-291-200(2)(b) Not all communities are full-time; some even have covenants to be used only as vacation homes.	**(37) Adopt as proposed:** The department cannot control the use of residences after construction. The department does not have the resources to enforce the types of covenants that might be necessary to ensure that a Group B system designed for part-time use remains that way forever.
	(38) 246-291-200 In general, this section gets into minutia at times and remains very general about other design criteria. This can lead to inconsistency and the need for waivers.	**(38) Adopt as proposed:** The department does not recommend making the suggested change. By requiring Group B systems to be designed for full-time residential population, it helps the system be properly designed for the potential system uses into the future. The design criteria that are specific and detailed will help provide greater public health protection.
	(39) 246-291-205(3) Clorox/Purex are trade names. We recommend using the term Bleach, or hypochlorite solution. There are generic brands of bleach that are just a effective. In addition, there may be some legal questions as to the state requiring specific Brands in the rule. Again, the ability to not grant a waiver, would not allow a system to use a generic bleach product with this rule.	**(39) Amend proposed rule:** The department recommends making a non-substantive change amending this section to clarify the requirements of additives and materials to reduce confusion. In addition, the department recommends making a non-substantive change amending the language to clarify the requirements for systems to use materials meeting the new federal safe drinking water standard for low lead content.
	(40) 246-291-210(1)(c(ii) We do not believe that in-ground tanks are appropriate. Perhaps the lower 25% could be burries, but any tank in which the equalization storage level goes below ground level puts the system at risk for infiltration. There could be extenuating circumstances, but in this case a waiver would be the	**(40) Adopt as proposed:** The department does not recommend making the suggested change. Storage tanks are required to be above ground surface level. If the bottom of the storage tank must be below the ground, it must be located above the water table to reduce the potential for infiltration of contaminants. The department

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	appropriate vehicle.	recommends that the bottom of the storage tank is also above ground level. As suggested, extenuating circumstances sometimes require a design to place the bottom of the tank below ground level.
	(41) 246-291-280(2) This section, if read literally, exempts systems illegally created under the existing rules from seeking design approval. While this likely does not apply for residential systems, it could very well apply to many businesses.	**(41) Adopt as proposed:** This section does not allow a system without full approval to expand to new uses or new connections. Because the proposed rule primarily regulates the approval of new or expanding Group B systems, the comment is not applicable. The purpose of this section is to prevent someone from having to make major water system improvements to obtain a local permit or approval for their existing use. Existing systems are common, and many existed long before the initial adoption of the Group B rule.
	(42) 246-291-280(b) Every potential source of contamination COULD create a public health risk. Therefore, we recommend re-wording to say "could create a significant health risk."	**(42) Adopt as proposed:** The department does not recommend making the suggested change. We believe the wording is sufficient to cover any risk associated with contamination.
	(43) 246-291-300(2)(d) Should be re-worded where the system, not just the source is vulnerable (for example a reservoir being contaminated by a flood, or falling tree, etc.).	**(43) Adopt as proposed:** The department does not recommend making the suggested change. The concerns addressed by the comment are addressed in provisions in WAC 246-291-300(2)(a).
	(44) 246-291-360(1)(a) Fecal coliform should be added to E. coli results.	**(44) Adopt as proposed:** The department does not recommend making this change because recent research has questioned the value of fecal coliform as an indicator of acute contamination.
	(45) 246-291-360(2) Any other primary contaminants should have notification (including pesticides, etc.)	**(45) Adopt as proposed:** The department does not recommend making the suggested change. The proposed rule requires notification of any primary contaminant if the department or LHJ requires sampling by a Group B system, including contaminants not listed as a primary contaminant in this chapter (such as pesticides).

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Max Beers Purveyor	**(46)** WAC 246-291-300 General requirements, under #2 states when it is required to collect and report water quality samples: when the health officer *(a) Determines a public health risk exists;* *(b) Receives information documenting contamination;* *(c) Receives a report of suspected or known waterborne illness from a health care provider* *or* *(d) Is aware of, or observes, a situation in which the source may be vulnerable to contamination. For example, a source is vulnerable to contamination from a flood event.* This issue is also addressed in section 360 Public Notification, stating conditions when the purveyor of the Group B system must notify the health officer and consumers. Again the issue of potential activity: *(c) Is aware of circumstances that pose a threat of acute contamination, such as a flood event.* My issue is with (d) in 300 and (c) in 360: the **vulnerability** of our system to contamination. What about the potential for contamination from a proposed activity? Let me explain with an experience we had in the 1990s when we were notified that Plum Creek would be logging off a section of land above our spring system, the source of our water system. I expressed concern to the King County Health department. They, working with Plum Creek and us, laid out some restrictions for the logging to protect our spring system. Before the logging, our water always tested perfect. The health department told me we had the cleanest water in the county. But then after the logging, even adhering to the restrictions, we had to install a chlorinator. So far we've eliminated the coliforms with the chlorinator. Who knows what happens with the next earth upsetting project. Without any health department restrictions, we may have been wiped out.	**(46) Adopt as proposed:** The department shares your concern about the vulnerability of your water source to adjacent land uses. That is why the proposed rule requires new or expanding Group B systems to use a drilled well as the system's source. The Group B rule does not apply to neighboring land use activities. Existing Group B systems will have protections that have existed through legal agreements, such as required covenants protecting source waters. New and expanding Group B systems will have similar protections. However, no new or expanding systems will be approved using a surface water source (such as a spring) because of the vulnerability to contamination, as you noted. If your water quality or quantity is threatened, the proposed rule will require the purveyor to notify system consumers of the source of the threat, the public health risk, and steps consumers should take to protect their health.

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	We are now faced with the locally contested Yarrow Bay development planned for Black Diamond, which is alarmingly close to our properties and thus our spring system. This is a major development; I believe the largest ever proposed for King County. I have raised concerns about the potential disruption to our vulnerable spring system in several of the hearings. I believe that this should be a concern to all surrounding property owners with shared or individual water systems. I also contacted King County Health Department who told me that they didn't have the staff to address our water issues and sent me to Washington State Health department. The folks in your offices gave me about the same answer. I'm hoping, even praying, that this revision to the water systems regulations, aimed at ensuring the protection of the **world's primary health issue, clean potable water**, will provide the strength of language and demonstrated fortitude to protect the small home owners from potential predator actions that endanger our livelihood. There are lots of good words in the regulations to protect us from ourselves, which, I understand, is necessary, but we also need protection from others. **If our public health departments aren't prepared to do this, then who is**? We are learning over and over through numerous public hearings and intensive repeals that the small sticks of even many small land owners have little sway over the guns of corporate powers. We need our government's (public servants) help through clearly defined and strictly administered regulations. We need your help. **We are Vulnerable.** **(47) Question:** Several places through the chapter 246-291 are detailed instructions for when an existing system is expanding. Under the definitions section, an expanding system is defined as	**(47) Adopt as proposed:** If your water system is approved for more connections than the system currently serves, the conditions of that approval will be honored. The system does not have to meet all the

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	"*additions, extensions, changes, or alterations to its existing source, transmission, storage, or distribution facilities that will enable the system to increase the size of its existing service area or the number of approved service connections."* Under the rewrite of section 280 #3, "*a purveyor of a Group B system approved prior to January 1, 2013, may provide potable water to additional service connections provided that:* *(a) The expanded use is consistent with the existing design approval;* *(b) The expanded use does not exceed the number of approved service connections; and* *(c) The purveyor complies with all locally adopted requirements."* Our system was designed and approved for a maximum of six (6) residential hookups. In the original Water Agreement, we set up for five (5) residential hookups. According to section 280 quoted above, I, as purveyor, should be able to approve an additional hookup without redesign of the system as long as we observe the conditions in a, b and c as listed above: within existing design, within the 6 approved hookups, and follow any local requirements. Am I interpreting this correctly?	proposed new requirements if the system serves additional connections, provided that the total number of connections does not increase beyond the number in the current approval.
Art Starry Thurston County Environmental Health	**(48)** Please give local health jurisdictions at least one year to update their local rules to implement the new Group B regulations. LHJs should not be required to implement any portion of the new rules for one year, or until their local rules are adopted, whichever comes first. As a local health jurisdiction with a local public water system program and regulations, it will take a significant amount of time and effort to work with the public, water system operators and our Board of Health to update our rules and program. Thanks for considering this request. **(49)** Both local health jurisdictions and the Department should have the authority to approve the adequacy of existing water	**(48) Amend proposed rule:** The department surveyed LHJs and is recommending a non-substantive change to delay the effective date by one year, to January 1, 2014. **(49) Adopt as proposed:** The department does not approve adequacy of systems. That is a requirement of RCW 19.27.097, which is a local

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	systems under proposed 246-291-280 (2). As written, this authority is limited to LHJs with local rules and delegation agreements. Without this authority the Department will be obligated to require all existing systems to go through the full water system design approval and construction documentation process described under proposed section 246-291-120. While this is appropriate in many cases, it will be a significant burden for a homeowner or system operator with a largely compliant water system that needs some assurance that their water system meets reasonable public health standards in order to sell or transfer their property.	government requirement. The department furnishes information about the status of public water system's approval status. If the system is not fully approved, WAC 246-291-280 provides information and minimum standards so that a local permitting jurisdiction can make that determination. The standards represent a set of basic requirements for the system's safety—water quality, pressure, and public health risk, and will prevent someone from unknowingly purchasing a property with a water supply that might make them sick.
John Kounts Washington Public Utilities Districts Association	**(50)** A key concern that emerged from discussion among PUD representatives about the rule involves future efforts to add new connections to existing Group B systems owned by PUDs and other well-managed municipal water utilities. As you heard on the call, under the proposed new rule, a municipal utility's Group B system might often need expensive upgrades before it can add a new connection. The consequence is that, instead of connecting to the Group B system, the affected homeowner or developer will find it cheaper to drill an individual well. As we discussed, from the perspective of the Department of Health and water utilities, it usually is in the long-term best interest of public health and good water management to have new homes and businesses connect to existing systems rather than to new individual wells. We need to work toward ensuring that the new Group B rule will be implemented by the Department of Health and local health jurisdictions in a way that will minimize the unnecessary drilling of new individual wells and will provide economically feasible opportunities for new connections to be added to the Group B systems of well-managed municipal water utilities. One way to achieve this outcome could be through compliance	**(50) Adopt as proposed:** The proposed Group B rule strengthens the standards for Group B design and construction. One specific challenge of increasing the design standards is what happens to existing Group B systems that are expanding. The proposed rule honors the approvals we've already granted. So, if a system was approved for 10 connections, and only has six current connections, they can add four new connections (up to their approved number (10)) with no additional approvals required. If a system wishes to expand the number of approved service connections, the proposed rule requires that expanding systems come into compliance with all requirements for a new system. The proposed requirements include provisions that a Group B system that has 10-14 connections meet the planning and engineering standards of the Group A rule. While the proposed rule may prevent some Group B systems from expanding, the rule will provide a higher level of public health protection for consumers on the system. Overall, systems will be better designed so that when a utility, such as a Public Utility District (PUD), is asked to take over a system, it won't have to rebuild the system from scratch. That has been a frequent concern expressed by the utilities in the PUD Association (PUDA).

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	agreements between utilities and health jurisdictions—either state or local—that would allow new connections to existing Group B systems with conditions for upgrading the system to the new rule's requirements over an agreed-upon time period. Such compliance agreements are commonly used for improvement of Group A systems. As part of implementing the new Group B rule, the Department of Health should work with PUDs, other municipal utilities, and the counties that have Group B oversight programs, to create a similar approach for adding connections to existing Group B systems, to help prevent the drilling of unnecessary additional individual wells.	We will be updating guidance documents and will work closely with the PUDA as we implement the Group B rule to identify potential options for PUDs to assist Group B water systems in providing safe and reliable drinking water.

Group B Public Water Systems - Chapter 246-291 WAC
WSR 12-17-138
Formal Comments and Department of Health's Recommendations - October 2, 2012

The Board's Environmental Health Committee directed the department to solicit feedback from the statewide Environmental Health Directors representing thirty-five local health jurisdictions about the planned rule effective date of January 1, 2013.

A poll was sent from Mark Tompkins via e-mail to all directors asking the following questions:

Okay with implementation date 31 days from filing?
Make implementation date 3-months from filing?
Make implementation date 6-months from filing?
Make implementation date 1-year from filing?

Environmental Health Director's Responses

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Poll Findings via Mark Tompkins, Environmental Directors Group	Received 24 responses to the survey. Results as follows: 31 days – 2 3 months – 1 6 months – 3 1 year – 17 Don't Care - 1	**Amend proposed rule:** Based on the super-majority of LHJs, the department recommends a non-substantive change to delay the effective date by one year, to January 1, 2014.